

THE HON'BLE SRI JUSTICE N.V. RAMANA

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W.P. No. 5286 of 2006

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Order:

Assailing the award dated 04.11.2004, passed by the Labour Court, Guntur, in I.D. No. 112 of 2001, published in G.O. Rt. No. 68, dated 11.01.2005, the petitioner filed the present writ petition.

The petitioner was appointed as Conductor in the respondent-APSRTC on 19.02.1987. On 28.09.1999, while the petitioner was conducting the bus on route Giddalur to Konapalli, a check was exercised, and the checking officials having found certain cash and ticket irregularities, issued charge memo to the petitioner. The petitioner submitted his explanation to the charge memo. Dissatisfied with the explanation, the respondent-Corporation placed the petitioner under suspension, and issued a charge sheet. The Enquiry Officer, who conducted enquiry into the charges leveled against the petitioner, submitted report holding that the charges are proved. Based on the enquiry report, the 1st respondent, namely the Depot Manager, vide proceedings dated 04.01.2000 issued notice to the petitioner, calling upon him to show cause as to why he should not be removed from service. The petitioner submitted his explanation thereto. However, vide proceedings dated 10.01.2000, the 1st respondent removed the petitioner from service. Assailing the order of removal, the petitioner filed appeal and review petition before the appellate and review authorities, which were rejected. Thereafter, he raised an industrial dispute in I.D. No. 112 of 2001 before the Labour Court, which by award dated 04.11.2004, published in G.O. Rt. No. 68, dated

11.01.2005, dismissed the same, upholding the orders of the disciplinary authority. Assailing the said award and notification, the petitioner filed the present writ petition.

The learned counsel for the petitioner submitted that since the petitioner was not doing well on the date of check, he slept in his seat, and he did not notice the passengers boarding the bus at stage 7/8, and therefore, he did not collect the fare from them and issue tickets. He further submitted that the petitioner did not commit any cash and ticket irregularities. He submitted that the enquiry conducted against the petitioner is in sheer violation of the principles of natural justice and the punishment of removal from service imposed on the petitioner is disproportionate to the proved charges. At any rate, he submitted that the delegation of powers on the Depot Manager by way of a resolution passed by the Corporation, without any approval or prior permission of the Government, is illegal, and the Depot Manager has no authority to suspend the petitioner or to issue the charge sheet, much less pass orders removing him from service, and therefore, the order of removal is bad. In support of the this contention, he relied upon the decisions reported in **K. Mohanlal v. Vice-Chairman and Managing Director, APSRTC, Hyderabad**^[1], **S. Pulla Reddy v. Depot Manager, APSRTC**^[2], **Ch. Subba Lakshmi v. Labour Court-III, Hyderabad**^[3], and **Mahesh Kumar Pandey v. Uppar Pradhan Prabhandhak (DGM), UPSRTC**^[4]. He thus prayed that the impugned order be set aside and the petitioner be reinstated into service with full backwages.

On the other hand, the learned Standing Counsel for the respondent-APSRTC submitted that the petitioner committed serious cash and ticket irregularities, and since the petitioner admitted all the

charges, the charges leveled against the petitioner were held proved by the Enquiry Officer in the departmental enquiry, and based on the enquiry report, the disciplinary authority, in exercise of the powers vested in him under the Employees Service Rules and Regulations of APSRTC, has imposed punishment of removal from service on the petitioner, which was confirmed in appeal as well as review and by the Labour Court in I.D. Having regard to the nature of proved charges, the punishment of removal from service imposed on the petitioner, cannot be said to be disproportionate, warranting interference therewith by this Court in exercise of its jurisdiction under Article 226 of the Constitution of India. He thus prayed that the writ petition be dismissed.

Heard the learned counsel for the petitioner and the learned Standing Counsel for the respondent-APSRTC and perused the award of the Labour Court.

The parameters and scope of judicial review of this Court under Article 226 of the Constitution of India to issue a writ of certiorari are limited to – firstly to correct errors of jurisdiction when the inferior Court or Tribunal acts without jurisdiction or in excess or fails to exercise it, secondly correct errors of law apparent on the face of the record, and thirdly correct and interfere with the findings that are base on suspicion, conjectures or surmises or no reason. It is within these parameters, the award of the Labour Court has to be examined.

I am unable to agree with the contention of the learned counsel for the petitioner that the delegation of powers on the Depot Manager by way of a resolution passed by the Corporation, without any approval or prior permission of the Government is illegal, and the Depot Manager has no authority to suspend the petitioner or to issue the charge sheet. In an organization like the APSRTC, which has a

de-centralized set up of administration with a hierarchy of officers, the powers that are vested in the higher authorities are delegated to the lower authorities, for better administration of its affairs, and such delegation of powers, cannot be faulted, until and unless the petitioner shows that the authority who delegated the powers to the Depot Manager, is himself not vested with the power of imposing punishment of removal from service. In fact, there are A.P.S.R.T.C. (Delegation of Powers), 1994 issued by the Corporation, and as per the said powers, the authority competent to dismiss an employee holding the post of Conductor and other posts, in respect of the circumstances mentioned in Section 9(1) of the A.P.S.R.T.C. (Classification, Control and Appeal) Regulations, 1967, is the appointing authority/disciplinary authority/appellate authority/review authority. In the case on hand, the appointing authority to the post of Conductor is the Depot Manager, and he being the appointing authority, the petitioner cannot contend that he has no authority, to pass an order of removal.

The petitioner was charge sheeted on five counts, namely -

(1) He failed to observe the rule "Issue and Start", (2) He, having collected Rs. 3/- each from a batch of 19 passengers, failed to issue tickets to them, (3) He failed to collect requisite fare and issue tickets to two passengers, (4) He, having collected Rs. 4/- each from three passengers and issued tickets to them, failed to account for the same in the SR, and (5) He failed to close the ticket numbers of all the denominations from stages 7 to 9. The petitioner admitted all the charges except collecting fare from nineteen passengers. Since the petitioner failed to issue tickets to nearly 21 passengers out of 25 passengers present in the bus at the time of check, and in view of the admission made by the petitioner with regard to other charges, the Enquiry Officer held that the charges leveled against the petitioner, are

proved. The disciplinary authority, considering the nature of proved charges, imposed punishment of removal from service. The Labour Court, upon re-appreciating the entire material on record, and the admissions made by the petitioner, found that the petitioner committed cash and ticket irregularities, and accordingly held that the punishment of removal from service imposed by the disciplinary authority is proportionate to the proved charges, and I see no reason whatsoever to interfere therewith, more so when the petitioner himself admitted the charges and the charges leveled against the petitioner stood proved in the departmental enquiry.

In **Divisional Controller, KSRTC (NWKRTC) v. A.T. Mane**^[5], the apex Court held that once a domestic tribunal based on evidence comes to a particular conclusion, normally it is not open to the appellate tribunals and courts to substitute their subjective opinion in the place of the one arrived at by the domestic tribunal. On the question of quantum of punishment, the apex Court held as follows:

Coming to the question of quantum of punishment, one should bear in mind the fact that it is not the amount of money misappropriated that becomes a primary factor for awarding punishment, on the contrary, it is the loss of confidence which is the primary factor to be taken into consideration.

In the instant case, the charges leveled against the petitioner stood proved, and having regard to the gravity and seriousness of the proved charges, the respondents having lost confidence in the petitioner, removed him from service. In such circumstances, I am of the considered opinion that no interference is called for with the impugned award passed by the Labour Court, which upheld the punishment of removal from service imposed on the petitioner by the disciplinary authority.

For the foregoing reasons, there is no merit in the writ petition, and the same is accordingly dismissed. No costs.

Date: 29th October, 2007.
GRR/KSR

[\[1\]](#) 2006 (3) ALD 304
[\[2\]](#) 1997 (2) ALD 558
[\[3\]](#) 1996 (1) ALD 517 (DB)
[\[4\]](#) 1998 LAB.I.C.218
[\[5\]](#) (2005) 3 SCC 254